

K-C Docket No.: 20,091

Serial No.: 10/750,381

Response to Restriction Requirement Dated: April 4, 2006

Remarks

In response to the restriction requirement mailed April 4, 2006, Applicant respectfully elects the Group I claims to be prosecuted by way of the present application, without traverse. That is, Applicant elects claims 1-37 for prosecution in the present application. Claim 42 has been added to more fully claim the present invention.

By electing Group I for prosecution, the Office requires an election of species. The following species are alleged to be distinct: (1) an absorbent garment garment with a support waistband and shell waistband that are coterminous having at least one posterior strap, (2) an absorbent garment wherein the width of the at least one posterior strap increases from the composite to the back waist region, (3) a garment shell with at least one posterior strap further comprising at least one anterior support strap, (4) an absorbent garment wherein a shell waistband is positioned higher on a wearer's waist than a support waistband, (5) an absorbent garment wherein the elasticized support waistband is releasably connected to the bodyside surface of the garment shell, (6) an absorbent garment wherein the elasticized support waistband is refastenably connected to the bodyside surface of the garment shell, (7) an absorbent garment with two posterior straps connecting the absorbent composite to the waistband, (8) an absorbent garment wherein the two posterior straps are releasably connected to the garment shell, (9) an absorbent garment wherein the two posterior straps include a frangible line of weakness, and (10) an absorbent garment with two posterior straps that diverge from one another. Applicant respectfully disagrees that the ten species are "independent or distinct because they are not obvious variants of one another and are not useable together."

MPEP Section 806.04(f) provides:

Where two or more species are claimed, a requirement for restriction to a single species may be proper if the species are mutually exclusive. Claims to different species are mutually exclusive if one claim recites limitations disclosed for a first species but not a second, while a second claim recites limitations disclosed only for the second species and not the first. This may also be expressed by saying that to require restriction between claims limited to species, the claims must not overlap in scope.

In the instant application, it is argued that at least species 2 and 3 are useable together, and that their claims overlap in scope. For instance, an absorbent garment with at least one posterior strap may further comprise an anterior strap. Both embodiments have the at least one posterior strap in common. Therefore, it is proposed that at least species 2 and 3 be combined. In this case, Applicant elects claims 31-33, 36-37, and newly added claim 42, each of which may correspond to the embodiment shown in Figure 7 of the application, shown below.

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